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SUBJECT: KAZAKHSTAN: OIL AND GAS AMENDMENTS SLIGHTLY TIGHTEN  
GOVERNMENT CONTROL

REF: A. 05 Almaty 3857, B. 06 Astana 927, C. 06 Astana 501

¶1. (SBU) Summary: On January 12, Kazakhstan adopted new amendments to its "Petroleum" and "Subsoil" laws, the most notable of which prohibits the transfer of subsoil rights for two years following signature of a subsoil contract. While this amendment has received considerable attention in the press, a prominent oil-and-gas attorney told Energy Officer that, in her opinion, the amendment was a justifiable response to considerable "speculation" in Kazakhstan's onshore market; further, as the amendment was not retroactive, it would have no effect on existing contracts. The new amendments also strengthen Kazakhstan's "local content" requirements in the procurement process, and -- in what is likely a response to fears of growing Chinese ownership of Kazakhstani oil assets -- define the Energy Ministry's right to refuse a company's participation in a tender in the interests of "national security." End summary.

#### Two-Year Moratorium on Rights Transfer

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¶2. (SBU) On January 12, President Nazarbayev signed into law a series of amendments to both the 1995 "Petroleum Law" and the 1996 "Subsoil Law." Most notably, the amendments prohibit the re-assignment of subsoil use rights within two years of a contract's effective date. KazMunaiGaz and its subsidiaries are exempted from this proscription. A Kazakhstani senator explained in the press that the amendment had been adopted in order to reduce "speculation," or an increasing tendency of contract signators to transfer their rights without making any investments or attempting to fulfill their contractual requirements. Marla Valdez, a leading oil and gas attorney, applauded the change in a February 16 conversation with Energy Officer, explaining that, with high oil prices, the sector had become fraught with speculation. The government was justified in seeking some continuity of ownership, she argued, adding that "in the oil business, two years is a very short time." Valdez also commended the fact that the law was not retroactive.

#### "National Security" Interests in Tenders

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¶3. (U) A new Subsoil Law amendment grants the Energy Ministry the right to refuse an applicant's participation in a tender if awarding the subsoil rights to that applicant would compromise Kazakhstan's national security. The amendment repeats language originally legislated in the fall 2005, in response to the Chinese National Petroleum Company's (CNPC) bid to purchase PetroKazakhstan (Ref A), defining the "concentration of rights" as a possible threat to national security. The media has linked this provision to the recent sale of Nations Energy's Karazhanbasmunai field to the China International Trust & Investment Corporation (CITIC Group), and to the public debate which ensued about China's increasing share of Kazakhstan's oil producing assets (Ref B).

## Local Content

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14. (SBU) The new amendments also tighten the GOK's local content regulations, requiring companies to meet local content benchmarks annually, rather than on average over the lifetime of a project. Subsoil users are also required to submit an annual procurement program. Valdez suggested that the local content amendments "had not turned out nearly as bad as investors had feared" in the wake of the October 2006 "Tengiz brawl" (Ref C), which focused national attention on the issues of local content and pay equity for Kazakhstani workers, especially in large oil and gas projects. Valdez explained that the law stipulated that local companies be granted contracts if they met "state regulations," rather than "international standards," as desired by Western oil majors. However, she noted, as part of the WTO accession process, Kazakhstan's "state regulations" were themselves being amended to prescribe "international standards," thus yielding the same result.

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